

PAY AND CONDITIONS GUIDE

Cemetery Industry Award 2010 [MA000070] ('modern award')
replacing terms and conditions in or derived from

Cemetery Boards - Western Australia Award 2000 [AP806103]
(‘pre-modern award’)

(WA)

Effective from 01 January 2014.

Published 24 January 2014 

Background

This guide was developed by the Fair Work Ombudsman to assist employers and employees covered by this modern award, pre-modern award and pay scales derived from this pre-modern award to identify minimum wages, penalties, loadings and allowances.

Transitional arrangements

Modern awards commenced operation on 01 January 2010. However, minimum wage, loading and penalty entitlements commence from 01 July 2010. Almost all modern awards include provisions to ‘transition’ employers and employees from their pre-modern award to the modern award system.

This modern award includes transitional provisions that provide for the ‘phasing in’ of increases or decreases in minimum wages, penalties and loadings in the modern award in 5 increments over 4 years from 01 July 2010. All other terms and conditions in this modern award apply in full from 01 January 2010.

The rates in this guide are current from 01 January 2014. The rates set out in this guide will change from the first full period on or after 01 July each year to take account of Fair Work Australia’s annual wage review and transitional arrangements. The rates may also change as a result of a Fair Work Australia decision to vary the modern award or pay and condition entitlements of the modern award from time to time.

Transitional arrangements for Division 2B State awards

Division 2B State awards (other than Division 2B enterprise awards) terminate at the end of 31 December 2010 and, from 1 January 2011, employers and employees are covered by the relevant modern award. However, most modern awards provide that all the terms of Division 2B State awards continue to apply until the end of the full pay period which started before 1 February 2011.

The employers affected include sole traders, partnerships, other unincorporated entities and non-trading corporations in New South Wales, Queensland, South Australia and Tasmania who are covered by a Division 2B State award.

From the first full pay period starting on or after 1 February 2011, an employer who was covered by a Division 2B State award, must comply with all of the terms and conditions contained in their relevant modern award, and any transitional arrangements that apply. Transitional arrangements in most modern awards for Division 2B State award employers provide that from the first full pay period starting on or after 1 February 2011, they must pay at least the same minimum wage rates, penalties and loadings as national system employers who are transitioning from the equivalent NAPSA. There are some exceptions and special transitional arrangements that apply in certain situations. If you require help determining whether these exceptions or special transitional arrangements apply to you, please contact the Fair Work Infoline on 13 13 94.

Note: Modern awards are not intended to reduce an employee's take-home pay. An employee or his/her union can apply to Fair Work Australia for a take-home pay order to remedy any reduction in his/her overall take-home pay.

Who should use the guide?

Employees and employers who were entitled to terms and conditions in or derived from this pre-modern award and who are now covered by this modern award.

A guide that has an AP (Pre-reform award) code typically applies to employees employed by a constitutional corporation. Usually these are companies that engage in trading or financial activities. Private companies are often identified by the 'Pty Ltd' in their name. It applies to employers in those categories who were bound by the award immediately prior to 01 January 2010.

A guide that has an AN (Notional agreement preserving State awards) code also typically applies to employees employed by a constitutional corporation. However, unlike pre-reform awards these are notional federal agreements that were created on 27 March 2006. Generally, they preserved the terms and conditions of employment (not including wage rates) in state awards and/or state legislation that applied immediately before 27 March 2006 to employees of constitutional corporations in NSW, QLD, SA, WA and TAS where State award/laws applied to those employers prior to 27 March 2006.

A guide that has an AT code typically applies to employees employed by non-constitutional corporations immediately before 27 March 2007 where the employer was bound by a Federal award. These will be sole traders, partnerships, other unincorporated entities or non-trading/financial corporations.

The guide contains information from this modern award about:

- who the modern award covers;
- wage rates, including rates for casual employees, junior employees, trainees and apprentices;
- penalty rates for working at particular times or under particular arrangements;
- allowances; and
- other conditions of employment.

What if an agreement applies to employees covered by the modern award?

Minimum wage entitlements in a modern award override lesser wage entitlements in an agreement or contract of employment at all times, including agreements and contracts that were made before the commencement of the *Fair Work Act 2009*. All employees covered by the modern award must not be paid less than the rate of pay in the modern award.

However, the penalty rates and allowances in the modern award do not apply to agreement-covered employees, unless the agreement is read in conjunction with the modern award (e.g. a pre-reform certified agreement (a type of collective agreement made before 27 March 2006)).

If you require assistance with any provisions of this guide please contact the **Fair Work Infoline** on **13 13 94**.

Coverage

This industry award covers employers throughout Australia in the cemetery and crematorium industry and their employees in the classifications listed in the award to the exclusion of any other modern award.

The award does not cover an employee excluded from award coverage by the **Fair Work Act 2009** (Cth).

The award does not cover employees who are covered by a modern enterprise award, or an enterprise instrument (within the meaning of the **Fair Work (Transitional Provisions and Consequential Amendments) Act 2009** (Cth)), or employers in relation to those employees.

The award does not cover employees who are covered by a State reference public sector modern award, or a State reference public sector transitional award (within the meaning of the Fair Work (Transitional Provisions and Consequential Amendments) Act 2009 (Cth)), or employers in relation to those employees.

This award covers any employer which supplies labour on an on-hire basis in the crematorium industry in respect of on-hire employees in classifications covered by this award, and those on-hire employees, while engaged in the performance of work for a business in that industry.

This award covers employers which provide group training services for apprentices and trainees engaged in the industry and/or parts of the crematorium industry and those apprentices and trainees engaged by a group training service hosted by a company to perform work at a location where the activities described herein are being performed.

Where an employer is covered by more than one award, an employee of that employer is covered by the award classification which is most appropriate to the work performed by the employee and to the environment in which the employee normally performs the work.

NOTE: Where there is no classification for a particular employee in this award it is possible that the employer and that employee are covered by an award with occupational coverage.

Wages

This modern award includes transitional arrangements that apply to minimum wage entitlements from the first pay period on or after 01 July 2010 until the first pay period on or after 01 July 2014 (when modern award wages commence in full).

The following wage tables set out base rates of pay for classifications under the modern award.

It also sets out how the modern award classification matches up with pre-modern award classification. If there is no classification match the employee may be covered by another pre-modern award, or another modern award, such as a modern award that covers the employee's occupation rather than the industry.

The base rates of pay in this guide include any applicable industry allowance. The base rates of pay also include any increase from Fair Work Australia's annual wage review. For more information about transitional arrangements for minimum wage entitlements, please visit www.fairwork.gov.au

Casual employees

The rates for casual employees set in the table below are minimum rates for **ordinary hours** only.

Please visit www.fairwork.gov.au for information about penalty entitlements for casual employees.

*Post 26 March 2006 employer

Wage rates for casual employees of employers that became part of the national system after 26 March 2006 do not include annual leave loading because those employees did not have a pre-modern award entitlement to annual leave loading.

Adult

The rates in this guide are current from the first pay period on or after 01 January 2014.

Full & Part Time

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)
Cemetery employee class 1	Cemetery employee, General employee, Level 1	\$17.10
Cemetery employee class 1	Crematorium operations, Level 2.1	\$17.28
Cemetery employee class 1	Gardening/horticulture, Level 2.1	\$17.28
Cemetery employee class 2	Cemetery operations, Maintenance, Level 2.1	\$18.20
Cemetery employee class 2	Cemetery operations, Maintenance, Level 2.2	\$18.22
Cemetery employee class 2	Cemetery operations, Maintenance, Level 2.3	\$18.22
Cemetery employee class 2	Cemetery operations, Grave digging, Level 2.1	\$18.20
Cemetery employee class 2	Cemetery operations, Grave digging, Level 2.2	\$18.22
Cemetery employee class 2	Cemetery operations, Grave digging, Level 2.3	\$18.22
Cemetery employee class 2	Gardening/horticulture, Level 2.2	\$18.22
Cemetery employee class 2	Gardening/horticulture, Level 2.3	\$18.22
Cemetery employee class 3	Cemetery operations, Maintenance, Level 3.1	\$18.82

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)
Cemetery employee class 3	Crematorium operations, Level 2.3	\$18.82
Cemetery employee class 3	Crematorium operations, Level 3.1	\$18.82
Cemetery employee class 3	Gardening/horticulture, Level 3.1	\$18.82
Cemetery employee class 3	Gardening/horticulture, Level 3.2	\$19.05
Cemetery employee class 4	Cemetery operations, Grave digging certificated, Level 3.1	\$19.71
Cemetery employee class 4	Gardening/horticulture, Level 3.3	\$19.94

Casual

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)
Cemetery employee class 1	Cemetery employee, General employee, Level 1	\$21.20 (24%)
Cemetery employee class 1	Crematorium operations, Level 2.1	\$21.43 (24%)
Cemetery employee class 1	Gardening/horticulture, Level 2.1	\$21.43 (24%)
Cemetery employee class 2	Cemetery operations, Maintenance, Level 2.1	\$22.57 (24%)
Cemetery employee class 2	Cemetery operations, Maintenance, Level 2.2	\$22.59 (24%)
Cemetery employee class 2	Cemetery operations, Maintenance, Level 2.3	\$22.59 (24%)
Cemetery employee class 2	Cemetery operations, Grave digging, Level 2.1	\$22.57 (24%)
Cemetery employee class 2	Cemetery operations, Grave digging, Level 2.2	\$22.59 (24%)
Cemetery employee class 2	Cemetery operations, Grave digging, Level 2.3	\$22.59 (24%)
Cemetery employee class 2	Gardening/horticulture, Level 2.2	\$22.59 (24%)
Cemetery employee class 2	Gardening/horticulture, Level 2.3	\$22.59 (24%)
Cemetery employee class 3	Cemetery operations, Maintenance, Level 3.1	\$23.34 (24%)
Cemetery employee class 3	Crematorium operations, Level 2.3	\$23.34 (24%)
Cemetery employee class 3	Crematorium operations, Level 3.1	\$23.34 (24%)
Cemetery employee class 3	Gardening/horticulture, Level 3.1	\$23.34 (24%)
Cemetery employee class 3	Gardening/horticulture, Level 3.2	\$23.62 (24%)

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)
Cemetery employee class 4	Cemetery operations, Grave digging certificated, Level 3.1	\$24.44 (24%)
Cemetery employee class 4	Gardening/horticulture, Level 3.3	\$24.73 (24%)

Junior

Junior employees are not covered by this guide for the modern award and pre-modern award.

Apprentice

The rates in this guide are current from the first pay period on or after 01 January 2014.

Full Time

Apprenticeship starting before 1/1/2014

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)
1st year	Four year term, First year	\$9.49
1st year	Three year term, First year	\$9.93
2nd year	Four year term, Second year	\$11.90
2nd year	Three year term, Second year	\$12.58

Apprenticeship starting on or after 1/1/2014

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)
Work performed on or after 1/1/2014, Did not complete yr 12, 2nd year	Four year term, Second year	\$11.90
Work performed on or after 1/1/2014, Did not complete yr 12, 2nd year	Three year term, Second year	\$12.58
Work performed on or after 1/1/2014, completed yr 12, 2nd year	Four year term, Second year	\$12.85
Work performed on or after 1/1/2014, completed yr 12, 2nd year	Three year term, Second year	\$13.53
Work performed before ppc 1/1/2015, Completed yr 12, 1st year	Four year term, First year	\$10.44
Work performed before ppc 1/1/2015, Completed yr 12, 1st year	Three year term, First year	\$10.89
Work performed on or after 2014, Did not complete yr 12, 1st year	Four year term, First year	\$9.97

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)
Work performed on or after 2014, Did not complete yr 12, 1st year	Three year term, First year	\$10.41

Apprenticeship

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)
3rd year	Four year term, Third year	\$14.93
3rd year	Three year term, Third year	\$15.38

Apprenticeship

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)
4th year	Four year term, Fourth year	\$18.52

Adult apprenticeship starting on or after 1/1/2014

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)
Work performed on or after 1/1/2014, 1st year	Four year term, First year	\$15.98
Work performed on or after 1/1/2014, 1st year	Three year term, First year	\$15.98
Work performed on or after 1/1/2014, 2nd year	Four year term, Second year	\$17.10
Work performed on or after 1/1/2014, 2nd year	Three year term, Second year	\$17.10
Work performed on or after 1/1/2014, 3rd year	Four year term, Third year	\$17.10
Work performed on or after 1/1/2014, 3rd year	Three year term, Third year	\$17.10
Work performed on or after 1/1/2014, 4th year	Four year term, Fourth year	\$18.84

Please note: This modern award contains special provisions for school based apprentices; these rates are not set out in this guide. For information about transitional rates for these employees please visit www.fairwork.gov.au and/or contact the **Fair Work Infoline** on **13 13 94**.

Trainee

This modern award incorporates trainee rates derived from the National Training Wage Schedule (NTW Sch.), as adjusted from time to time.

Supported Wage

Please refer to clause 14.4 of the modern award.

For detail of the supported wage provisions see the full version of the modern award.

Penalties and Loadings (other than casual or part-time loadings for ordinary hours)

Where an employee had an entitlement to a loading/penalty rate before 01 January 2010 that is exactly the same as the modern award loading/penalty entitlement the modern award loading/penalty applies in full from 01 January 2010.

Transitional arrangements

This modern award includes transitional arrangements that apply to loading/penalty entitlements where there is a difference in modern award and pre-modern award loading/penalty entitlements. Transitional arrangements apply from the first pay period on or after 01 July 2010 until the first pay period on or after 01 July 2014 (when modern award loadings/penalties apply in full).

Different arrangements apply depending on whether the entitlements are “equivalent” or not.

- A pre-modern award loading/penalty will be “equivalent” to a modern award entitlement where the loading/penalty applies:
 - for the same purpose (e.g. Saturday penalty);
 - for the same time periods; and
 - in the same way#.
- #A pre-modern award and modern award loading/penalty applies in the same way if the entitlements are both:
 - paid at the same frequency, such as per hour or per shift; and
 - paid as a percentage of the same amount (e.g. both penalties are paid as a percentage of the employee’s classification rate, rather than as a percentage of a different amount or paid as a flat dollar amount).

Casual loadings and penalties also need to interact with each other in the same way in the pre-modern award and modern award to be equivalent (e.g. the loading and penalty rate are calculated on the base hourly rate in both instruments).

Equivalent entitlements

If the pre-modern award loading/penalty rate is “equivalent” to the modern award loading/penalty rate the penalty rate is calculated as follows:

1. The difference between the two loading/penalty rates is referred to as a “transitional percentage”. The transitional percentage stays the same every year.
2. A proportion of the transitional percentage is calculated each year as follows:

First full pay period on or after	Proportion of transitional percentage
01 July 2010	80%
01 July 2011	60%
01 July 2012	40%
01 July 2013	20%
01 July 2014	0%

3. Where the modern award loading/penalty is higher, the penalty rate is obtained by subtracting the proportion of the transitional percentage.

Example:

The table below shows the percentage penalty rates that apply from the first full pay period on or after 01 July 2010 until the last full pay period before 01 July 2011 for common penalty rates.

Please note the below table is a guide **only** and can only be used when the entitlements are equivalent and the modern award penalty is higher.

1/01/2010	1/07/2014	1/07/2010
Pre-modern award penalty	Modern award penalty	Penalty rate (phased)
25%	50%	30%
50%	75%	55%
50%	100%	60%
75%	100%	80%

4. Where the modern award loading/penalty is lower, the penalty rate is obtained by adding the proportion of the transitional percentage.

Example:

The table below shows the percentage penalty rates that apply from the first full pay period on or after 01 July 2010 until the last full pay period before 01 July 2011 for common penalty rates.

Please note the below table is a guide **only** and can only be used when the entitlements are equivalent and the modern award penalty is lower.

1/01/2010	1/07/2014	1/07/2010
Pre-modern award penalty	Modern award penalty	Penalty rate (phased)
50%	25%	45%
75%	50%	70%
100%	50%	90%
100%	75%	95%

Entitlements that are not equivalent

If pre-modern award and modern award penalty rates are not "equivalent", the following approach applies:

1. Loadings/penalty rates from a modern award are phased in from zero in five instalments of 20% by multiplying the penalty rate by the following percentage:

First full pay period on or after	Percent of modern award loading/penalty
01 July 2010	20%
01 July 2011	40%
01 July 2012	60%
01 July 2013	80%
01 July 2014	100%

2. Pre-modern award loadings/penalty rates are phased out to zero in five instalments of 20% by multiplying the penalty rate by the following percentage:

First full pay period on or after	Percent of pre-modern award loading/penalty
01 July 2010	80%
01 July 2011	60%
01 July 2012	40%
01 July 2013	20%
01 July 2014	0%

Please note that a pre-modern award penalty rate can be 'phased out' at the same time that a modern award penalty is 'phasing in' (i.e. where different entitlements apply in the same time period). This means that two different rates may apply for the same time period.

Example:

The table below shows the percentage penalty rates that apply from the first full pay period on or after 01 July 2010 until the last full pay period before 01 July 2011 for common penalty rates.

Please note the below table is a guide **only** and can only be used when the entitlements are not equivalent.

1/01/2014 Modern award penalty	1/07/2010 Penalty rate (phased) (20.00%)
10.00%	2.00%
20.00%	4.00%
25.00%	5.00%
50.00%	10.00%
75.00%	15.00%
100.00%	20.00%
120.00%	24.00%
125.00%	25.00%
130.00%	26.00%
150.00%	30.00%

1/01/2010 Pre-modern award penalty	1/07/2010 Penalty rate (phased) (80.00%)
10.00%	8.00%
20.00%	16.00%
25.00%	20.00%
50.00%	40.00%
75.00%	60.00%
100.00%	80.00%
120.00%	96.00%
125.00%	100.00%
130.00%	104.00%
150.00%	120.00%

New entitlements

Where an employee did not have a particular loading/penalty entitlement before 01 January 2010, the modern award loading/penalty is phased in from zero as a new entitlement from the first pay period on or after 01 July 2010 by multiplying the penalty rate by the following percentage:

First full pay period on or after	Percent of modern award loading/penalty
01 July 2010	20%
01 July 2011	40%
01 July 2012	60%
01 July 2013	80%
01 July 2014	100%

Example:

The table below shows the percentage penalty rates that apply from the first full pay period on or after 01 July 2010 until the last full pay period before 01 July 2011 for common penalty rates.

Please note the below table is a guide **only** and can only be used when the entitlements in the modern award are new.

1/07/2014	1/07/2010
Modern award penalty	Penalty rate (phased)
25%	5%
50%	10%
75%	15%
100%	20%

For more information about transitional arrangements for loading/penalty entitlements please visit www.fairwork.gov.au and/or contact the **Fair Work Infoline** on **13 13 94** for advice and assistance.

Allowances

Allowances in modern awards apply in full from 01 January 2010 (although the rates may change from time to time).

All states covered by this instrument Full Time, Part Time, Casual

Clause	Allowance Type	Description	Effective Date	Rate
15.1 (a)	Leading hand allowance	An employee, other than an employee classified at Class 5 and above, appointed by the employer to be in charge of employees, will be paid an additional allowance. In charge of 2-6 employees	1/07/2013	\$0.4004 per hour. This weekly allowance has been converted to an hourly amount. It should be applied to all ordinary hours of work (up to a maximum of 38 hours per week). (2.10%)
15.1(b)	Leading hand allowance	In charge of more than 6 employees	1/07/2013	\$0.8770 per hour. This weekly allowance has been converted to an hourly amount. It should be applied to all ordinary hours of work (up to a maximum of 38 hours per week). (4.60%)
15.2	First aid allowance	An employee who is appointed by the employer to perform first aid duty, who has been trained to render first aid and is the	1/07/2013	\$0.2288 per hour.

Clause	Allowance Type	Description	Effective Date	Rate
		current holder of appropriate first aid qualifications such as a certificate from the St John Ambulance or similar body, will be paid an allowance.		This weekly allowance has been converted to an hourly amount. It should be applied to all ordinary hours of work (up to a maximum of 38 hours per week). (1.20%)
15.3(a)	Exhumation allowance	<p>Exhumation allowance</p> <p>An employee required to do any work in an exhumation will receive an allowance for each body exhumed in addition to their minimum wage as follows:</p> <p>- where a body has been buried for 14 days or less</p> <p>(8.9% per week x 38 = 338.2% per hour)</p>	1/07/2013	\$64.4805 per body exhumed (338.20%)
15.3(b)	Exhumation allowance	<p>Where a body has been buried for more than 14 days but less than seven years and had been arterially embalmed and sealed in a metal, polythene or other approved plastic container</p> <p>(10.7% per week x 38 = 406.6% per hour)</p>	1/07/2013	\$77.5215 per body exhumed (406.60%)
15.3(c)	Exhumation allowance	<p>Where a body has been buried for more than 14 days but less than seven years and has not been arterially embalmed and inserted in a metal, polythene or other approved plastic container</p> <p>(17.8% per week x 38 = 676.4% per hour)</p>	1/07/2013	\$128.9610 per body exhumed (676.40%)

Clause	Allowance Type	Description	Effective Date	Rate
15.3(d)	Exhumation allowance	Where a body has been buried in excess of seven years (8.9% per week x 38 = 338.20% per hour)	1/07/2013	\$64.4805 per body exhumed (338.20%)
15.4	Other	<p>Lift and deepen allowance</p> <p>An employee is entitled to receive a lift and deepen allowance whenever the employee performs work in a lift and deepen procedure.</p> <p>NOTE: This procedure is distinct from an exhumation in that it is performed at the request of the person with authority over the grant in order to accommodate further burials within an existing grave site. Unlike an exhumation, a lift and deepen can only occur after five years has elapsed from the date of the last burial in the grave site (or at such longer period as prescribed by the cemetery authority). This procedure is the disinterment of the remains from a grave, wherein an authorised employee must physically recover the remains from a grave and reinterred the remains into the same grave at a greater depth.</p> <p>Time since last burial in grave:</p> <p>5 years but less than 10 years (8.7% per week x 38 = 330.6% per hour)</p>	1/07/2013	\$63.0315 per procedure (330.60%)
15.4	Other	10 years but less than 25 years (6.5% per week x 38 = 247% per hour)	1/07/2013	\$47.0925 per procedure (247.00%)
15.4	Other	25 years but less than 50 years (4.3% per week x 38 = 163.4% per hour)	1/07/2013	\$31.1535 per procedure (163.40%)

Clause	Allowance Type	Description	Effective Date	Rate
15.4	Other	More than 50 years (2.2% per week x 38 = 83.6% per hour)	1/07/2013	\$15.9390 per procedure (83.60%)
15.5	Other	Excavation allowance An employee who is required to excavate around a coffin below the level of the lid and to place bars, tapes or ropes under the coffin so it may be lifted from the grave (and is not required to actually perform an exhumation or lift and deepen procedure) will be paid an allowance: For the first body in a grave (5.4% per week x 38 = 205.2% per hour)	1/07/2013	\$39.1230 per body excavated (205.20%)
15.5	Other	For each additional body from the same grave (2.7% per week x 38 = 102.6% per hour)	1/07/2013	\$19.5615 per body excavated (102.60%)
15.6	Meal allowance	Employees required to work overtime for more than two hours after their ordinary ceasing time on any day, and who have not been so advised the day previously, will be paid a meal allowance	1/07/2013	\$11.4900 per meal
15.8	Industry allowance	All purpose allowance expressed as per week. In addition to the minimum wage rates prescribed, an employee must be paid an industry allowance of 3.8% of the standard rate per week.	1/07/2013	\$0.7245 per hour. This weekly allowance has been converted to an hourly amount. It should be applied to all ordinary hours of work (up to maximum of 38 hours week (3.80%))

Clause	Allowance Type	Description	Effective Date	Rate
15.9	Vehicle allowance	An employee who reaches agreement with their employer to use their own motor vehicle on the employer's business, must be paid a vehicle allowance.	1/07/2013	\$0.7600 per kilometre

Other Conditions

The following conditions in the modern award apply in full from 1 January 2010. Please note that the below table is a summary of commonly applicable entitlements in the modern award, there may be other entitlements in the modern award that are relevant to particular employers or employees. Please refer to the modern award for full details.

Note: The National Employment Standards (**NES**) operate together with modern awards to provide minimum conditions of employment for employers and employees in the national system. The NES sets out ten minimum statutory entitlements that apply to all employees, including leave and termination of employment entitlements.

For more information about the NES, please visit www.fairwork.gov.au

All states covered by this instrument

Clause	Conditions Type	Description
7	Award flexibility (Instrument)	<p>An employer and an individual employee may agree to vary the following terms of this award to meet the genuine needs of the employer and the individual employee with respect to:</p> <ul style="list-style-type: none"> - arrangements for when work is performed - overtime rates - penalty rates - allowances - leave loading. <p>Other conditions concerning award flexibility are contained within the Fair Work Act 2009.</p>

Clause	Conditions Type	Description
8	Consultation (Instrument)	The award contains information on the employer's responsibility to consult regarding major workplace change including the: - duty to notify, and - duty to discuss change.
9	Dispute resolution (Instrument)	The award sets out a dispute resolution procedure for dealing with disputes in relation to a matter under the award or the National Employment Standards (NES).
10.2	Part-time conditions (Instrument)	A part-time employee is an employee who is engaged to perform less than the full-time hours at the workplace on a reasonably predictable basis. Part-time employees are entitled on a pro rata basis to equivalent pay and conditions to those of full-time employees.
10.3	Casual conditions (Instrument)	A casual employee is an employee engaged as such. A casual employee must be paid per hour at the rate of 1/38th of the weekly rate prescribed for the class of work performed, plus 25%. This loading is instead of entitlements to leave and other matters from which casuals are excluded by the terms of this award and the NES. Casual employees are entitled to a minimum payment of two hours' work at the appropriate rate.
11.2	Termination of employment - notice of termination by an employee (Instrument)	The notice of termination required to be given by an employee is the same as an employer except there is no requirement to give additional notice based on age. If an employee fails to give the required notice the employer may withhold from any monies due on termination, the difference between the amount of notice required and the amount of notice actually given.
11.3	Termination of employment - job search entitlement (Instrument)	Where an employer has given notice of termination to an employee, an employee must be allowed up to one day's time off without loss of pay for the purpose of seeking other employment. The time off is to be taken at times that are convenient to the employee after consultation with the employer.
12.2	Redundancy - transfer to lower paid duties	Where an employee is transferred to lower paid duties by reason of redundancy, the same period of notice must be given as the employee would have been entitled to if the employment had been terminated.

Clause	Conditions Type	Description
	(Instrument)	Alternatively, the employer may choose to pay the employee the difference between the former ordinary time rate of pay and the new ordinary time rate of pay for the number of weeks of notice still owing.
12.3	Redundancy - employee leaving during notice period (Instrument)	An employee given notice of termination in circumstances of redundancy may terminate their employment during the period of notice. The employee is entitled to receive the benefits and payments they would have received had they remained in employment until the expiry of the notice, but is not entitled to payment instead of notice.
12.4	Redundancy - job search entitlement (Instrument)	<p>An employee given notice of termination in circumstances of redundancy must be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.</p> <p>If the employee has been allowed paid leave for more than one day, the employee must, by request, produce proof of attendance at an interview or they will not be entitled to payment for the time absent. For this purpose a statutory declaration is sufficient.</p>
12.5	Redundancy - transitional provisions (Instrument)	<p>An employee is entitled to redundancy pay in accordance with the NAPSA that would have applied immediately prior to 1 January 2010, if the employee had at that time been in their current circumstances of employment and no agreement-based transitional instrument or enterprise agreement had applied to the employee; and that would have entitled the employee to redundancy pay in excess of the employee's entitlement under the NES. This includes employees engaged after 1 January 2010.</p> <p>The entitlement to redundancy pay under the NAPSA is limited to the amount which exceeds the entitlement under the NES.</p> <p>This clause does not reduce an employee's entitlement to redundancy pay under any other instrument and ceases to operate on 31 December 2014.</p>
16	District allowance (Instrument)	<p>An employee in the Northern Territory or Western Australia is entitled to payment of a district allowance in accordance with the provisions of an award or NAPSA under the Workplace Relations Act 1996 that would have applied to the employee immediately prior to 1 January 2010, if the employee had at that time been in their current circumstances of employment and no agreement-based transitional instrument or enterprise agreement had applied to the employee; and, providing that employee was not bound by an agreement under that Act.</p> <p>This clause ceases to operate on 31 December 2014.</p>

Clause	Conditions Type	Description
17	Accident pay (Instrument)	<p>An employee is entitled to accident pay in accordance with the terms of:</p> <ul style="list-style-type: none"> - a NAPSA that would have applied to the employee immediately prior to 1 January 2010 or an award made under the Workplace Relations Act 1996 (Cth) that would have applied to the employee immediately prior to 27 March 2006, if the employee had at that time been in their current circumstances of employment and no agreement made under the Workplace Relations Act 1996 (Cth) had applied to the employee, and - that would have entitled the employee to accident pay in excess of the employee's entitlement to accident pay, if any, under any other instrument. <p>The employee's entitlement to accident pay under the NAPSA or award is limited to the amount of accident pay which exceeds the employee's entitlement to accident pay, if any, under any other instrument.</p> <p>This clause does not reduce an employee's entitlement to accident pay under any other instrument and ceases to operate on 31 December 2014.</p>
18	Higher duties (Instrument)	<p>An employee who is required to perform work or relieve in a position of a higher class for which a higher rate of pay is prescribed in this award, will be paid such higher rate for time spent performing work at such higher class.</p>
20	Superannuation (Instrument)	<p>The award contains information on:</p> <ul style="list-style-type: none"> - the employers responsibility to make superannuation contributions to a superannuation fund - the ability for an employee to authorise their employer to pay on their behalf contributions to a superannuation fund - the employers responsibility to make superannuation contributions to another superannuation fund that is chosen by the employee.
21	Hours of work (Instrument)	<p>Ordinary hours of work will be an average of 38 hours per week over a maximum four week cycle and will be worked between the hours of 7.00 am and 6.00 pm, Monday to Friday.</p> <p>By mutual arrangement between an employer and employee, ordinary hours may be arranged to allow the accrual of a rostered day off.</p>

Clause	Conditions Type	Description
		<p>In such an arrangement, ordinary working hours will be worked as a 20 day, four week cycle of eight hours each with 0.4 (two fifths) of one hour each day worked accruing as an entitlement to take one day off as a rostered day off, paid for as though worked.</p> <p>A rostered day off will be taken on a day allocated by the employer within the four week cycle.</p> <p>An employer and employee may agree to substitute such day for an alternate day or in the case of a breakdown in machinery or a failure or a shortage of electric power or some other emergency situation, substitution may be at the direction of the employer.</p> <p>Rostered days off may accrue to a maximum of five days. The accrued days are to be taken at a time mutually agreed between the employer and the employee, but within 12 months of the date the first rostered day off accrued.</p> <p>An employee may elect, with the consent of their employer, to work make-up time, under which the employee takes time off during ordinary hours and works those hours at a later time, during the spread of ordinary hours provided in the award, at the ordinary rate of pay.</p>
22.1	Breaks - meal (Instrument)	<p>Employees will be allowed an unpaid meal break of not less than 30 minutes and not more than 60 minutes at a time mutually agreed or, in default of agreement, at a time nominated by the employer provided that an employee will not be required to work more than five consecutive hours without being allowed such break.</p>
22.2	Breaks - rest (Instrument)	<p>Full-time and part-time employees will be allowed two rest periods each day of 10 minutes duration without deduction of pay as follows:</p> <ul style="list-style-type: none"> - the first period of 10 minutes is to be allowed between the time of commencement of work and the usual meal break. - the second period of 10 minutes is to be allowed between the usual meal break and the time of ceasing work. <p>Such rest pauses will be taken at a mutually agreed time and place or, in default of agreement, at a time and place nominated by the employer to ensure minimal interference with work being undertaken on any day.</p>

Clause	Conditions Type	Description
23.2	Overtime – time off in lieu (Instrument)	Time off instead of overtime provided in Penalty Rates may be taken by mutual agreement between the employer and employee. Time off instead of overtime is to be taken at the ordinary time rate of an hour for each hour worked.
24.2	Annual leave loading (Instrument)	When taking a period of annual leave for which they have become entitled an employee will be paid a loading of 17.5% in addition to payment provided by the NES for such leave.
24.3	Annual leave - close-down (Instrument)	An employee must take a period of annual leave when directed by the employer to do so during a period when the employer's operations are closed or partially closed or the employee has at least 18 months of annual leave accrued.
27.2	Public holidays (Instrument)	An employer and employee may agree to substitute a public holiday for an alternate day by agreement.

Frequency of Payment

Wages may be paid weekly or fortnightly by cash, cheque or into the employee's nominated bank (or other recognised financial institution) account at the option of the employer.

IMPORTANT NOTE: Disclaimer

The Fair Work Ombudsman is committed to providing advice that you can rely on.

Your situation and the law can change so we encourage you to check back with us by looking at <http://www.fairwork.gov.au/pay/pay-and-conditions-guides/pages/default.aspx>